

SUBMITTED UNDER FRE 408

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ **SEP 10 2015** ★
LONG ISLAND OFFICE

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CESAR MOREIRA, MARTIN CISNEROS,	:	
FREDIS GOMEZ, LUIS M. RAMIERZ and	:	
ROBERTO CONTRERAS, on behalf of	:	
themselves and	:	<u>ECF CASE</u>
others similarly situated,	:	
	:	
Plaintiffs,	:	2:13-CV-02640 (AKT)
	:	
-against-	:	
	:	
SHERWOOD LANDSCAPING, INC., MAIN	:	
STREET NURSERY, and ROBERT McKEAN	:	
and RICHARD McKEAN, in their individual	:	
capacities.	:	
	:	
Defendants.	:	
	:	
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SUPPLEMENTAL SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Supplemental Settlement Agreement and General Release (the "Agreement") is entered into between Plaintiffs Cesar Moreira, Martin Cisneros, Fredis Gomez, Luis M. Ramirez, and Roberto Contreras, individually and on behalf of all Settlement Class Members as defined herein and Sherwood Landscaping, Inc. and Main Street Nursery on their own behalf, and on behalf of their present and former parent companies, directors, officers, members, managers, employees, agents, attorneys, and all subsidiaries, affiliates, joint ventures, partners, predecessors, shareholders, insurers, successors, and assigns, and Robert McKean and Richard McKean, individually and their respective agents, heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, and successors-in-interest (collectively, "Defendants"), and is subject to the terms and conditions

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hereof and the final approval of the U.S. District Court for the Eastern District of New York (the "District Court").

WHEREAS. Plaintiffs and Defendants (the "Parties") entered into a Settlement Agreement and General Release which executed by the parties on or about June 17, 2015 (the "Original Agreement").

WHEREAS. following the execution of the Original Agreement, the Parties identified additional individuals who were entitled to a recovery as members of the Settlement Class, as defined in Paragraph 2 of the Original Agreement, under the terms and conditions of the Original Agreement, but who were not included in the Settlement Amount set forth therein.

WHEREAS. the Parties now desire to enter into this Agreement in the interests of fully and finalizing all claims that could have been raised by any member of the class.

NOW. THEREFORE. the Parties, in consideration of the mutual promises and covenants set forth herein, and in the Original Agreement, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

1. Except as otherwise explicitly stated, this Agreement incorporates all of the terms and conditions set forth in the Settlement Agreement and General Release executed by the parties on or about June 17, 2015 (the "Original Agreement"), including but not limited to those provisions governing the Timing of Payments, the Notice Procedure, and the Distribution of Settlement.

2. Defendants will increase the amount of the Settlement Fund, as defined in Paragraph 22 of the Original Agreement, by the amount of Thirty eight thousand nine hundred ninety one dollars and ninety cents (\$38,991.90). The total amount of the Settlement Fund shall therefore be increased to Nine hundred eighty eight thousand nine hundred ninety one dollars

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and ninety cents (\$988,991.90), which represents the maximum total payment that Defendants will pay for Final Settlement Payments and Class Counsel Fees. This Supplemental Settlement Fund shall be used to pay any additional recovery due and owing under the Original Agreement with respect to the Settlement Class.

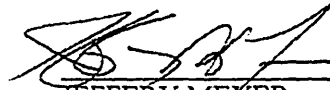
3. The Parties agree that the this amount shall be distributed in the manner set forth in Paragraphs 36 and 37 of the Original Agreement, including but not limited to with respect to the allocation of attorney's fees in the amount of 33.33% of the Settlement Fund as provided in Paragraph 36 of the Original Agreement.

4. This Agreement constitutes the full, complete and entire understanding, agreement and arrangement between Class Representatives and the Settlement Class Members on the one hand and Defendants on the other hand with respect to the settlement of the Action and the Settled Claims against the Released Parties. This Agreement supersedes any and all prior oral or written understandings, agreements and arrangements between the Parties with respect to the settlement of the Action and the Settled Claims against the Released Parties. Except those set forth expressly in this Agreement, there are no other agreements, covenants, promises, representations or arrangements between the Parties with respect to the settlement of the Action and the Settled Claims against the Released Parties.

5. This Agreement may be signed in one or more counterparts. All executed copies of this Agreement, and photocopies thereof (including facsimile and/or electronic copies of the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original.

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Dated: August 26, 2015



JEFFERY MEYER
KAUFMAN DOLOWICH & VOLUCK, LLP

Attorneys for Defendants



Dated: August 25, 2015

DELVIS MELENDEZ

*Attorneys for Plaintiffs And On Behalf All Others
Similarly Situated*

4844-3423-6711, v. 1

Preliminary Approval GRANTED

SO ORDERED

~~/s/ A. Kathleen Tomlinson~~

A. Kathleen Tomlinson

United States Magistrate Judge

Date: September 10 20 15

Central Islip, N.Y.